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| EDWARD SANCHEZ, |) | |
| |) | |
| Movant, |) | |
| |) | |
| v. |) | No. 1:13CV167 SNLJ |
| |) | |
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Respondent. |) | |

This matter is before the Court on Edward Sanchez’s motion to vacate, set aside, or correct sentence under 28 U.S.C. § 2255. Having reviewed the motion, the Court finds that it must be dismissed because it is successive and movant does not have permission from the Circuit Court to file it.

Movant pled guilty to possession with intent to distribute fifty grams or more of a substance containing methamphetamine. On September 11, 2009, the Court sentenced movant to 135 months' imprisonment. Movant did not appeal. On September 7, 2010, movant filed a motion to vacate under § 2255. The Court denied the motion on its merits on October 26, 2011. And on February 29, 2012, the Eighth Circuit Court of Appeals denied movant's application for a certificate of appealability.

Movant filed the instant motion in the United States District Court for the Northern District of Texas. He labeled it as a petition for writ of habeas corpus under 28 U.S.C. § 2241. The Texas court found that the relief requested was only available under § 2255, and the court warned petitioner that if he did not withdraw it, the court would construe it as a § 2255 motion and transfer it to this Court. Movant did not withdraw the motion.

Movant alleges that his conviction is unlawful because the indictment was invalid, and he seeks early release from confinement.

Title 28 U.S.C. § 2255(h) requires that a movant seeking to file a second or successive motion must obtain permission from the Circuit Court before filing such motion in the District Court. Absent certification from the appellate court, this Court lacks jurisdiction to grant the requested relief. Because movant does not have permission from the Eighth Circuit Court of Appeals to file this action, the Court will dismiss it without further proceedings.

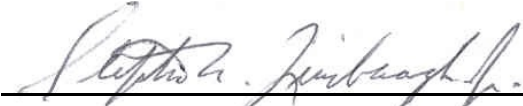
Finally, movant has failed to demonstrate that jurists of reason would find it debatable whether the motion is successive. Thus, the Court will not issue a certificate of appealability. 28 U.S.C. § 2253(c).

Accordingly,

IT IS HEREBY ORDERED that this action is **DISMISSED**.

A separate Order of Dismissal will be filed forthwith.

Dated this 18th day of November, 2013.



STEPHEN N. LIMBAUGH, JR.
UNITED STATES DISTRICT JUDGE